

BEFORE THE  
**Federal Communications Commission**  
WASHINGTON, D. C. 20554

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

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In re Matter of

AMENDMENT OF SECTION 73.202(b),  
TABLE OF ALLOTMENTS  
FM BROADCAST STATIONS  
(Burgin and Science Hill,<sup>1</sup> Kentucky)

MM Docket No. 00-173  
RM-9964

To: Chief, Allocations Branch

**REPLY COMMENTS OF VERNON R. BALDWIN**

Vernon R. Baldwin ("Baldwin") herein submits the following Reply Comments in the above-captioned proceeding:

Baldwin has petitioned the Commission to allot Channel 290A to Burgin, Kentucky, as that community's first local broadcast service. In response to Baldwin's petition, the Chief of the Allocations Branch issued a *Notice of Proposed Rule Making*, DA 00-2161 (released September 22, 2000), which set November 13, 2000, as the deadline for comments and counterproposals. On October 5, 2000, Baldwin filed Comments reiterating his interest in seeking the proposed Burgin station.

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<sup>1</sup> Science Hill has been added to caption.

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On November 13, 2000, Pulaski County Broadcasting ("PCB") submitted a mutually exclusive counterproposal to allot Channel 290A to Science Hill, Kentucky, as that community's first local broadcast service. For the reasons set forth below, if a choice between the two communities must be made, Burgin must be selected

As of the 1990 Census the population of Burgin was 1,009 persons. Science Hill's population was smaller, 628 persons. According to the Census Bureau's most recent estimates (July 1, 1999), the current population of Burgin is 1,109; of Science Hill, 687. Significantly, neither the Burgin allotment nor the Science Hill allotment will reach an underserved area. Five or more radio stations currently provide service to the entire 60 dBu contour of each proposed station. *See* Engineering Statement of William G. Brown, Bromo Communications, included as Attachment A hereto (hereinafter "Engineering Statement").

Under such circumstances, the Commission has made clear the larger community is to be preferred. *Blanchard, Louisiana*, 10 FCC Rcd 9828 (1995) (where both communities would receive a first local service and both communities were well served, Blanchard, with a population 38 persons larger than the competing community of Stephens, Arkansas, was selected, notwithstanding that Stephens received service from fewer broadcast stations than Blanchard); *accord, e.g., Everglades City, Florida*, 15 FCC Rcd 9427 (Chief, Allocations Branch 2000); *Easton, California*, 15 FCC Rcd 5046 (Chief, Allocations Branch 2000); *St. Marks, Florida*, 12 FCC Rcd 11957 (Chief Allocations Branch 1997); *Athens, Illinois*, 11 FCC Rcd 3445 (Chief, Allocations Branch 1996).

Another factor favoring adoption of the Baldwin proposal is that the Burgin station's 60 dBu contour will encompass a significantly larger population (94,999 persons) than would the 60 dBu contour of the Science Hill station (65,359 persons). *See* Engineering Statement. Accordingly, if no alternative channel is available for Science Hill, Baldwin's proposal to allot Channel 290A at Burgin must be chosen over PCB's proposal to allot the same channel to Science Hill.

But an alternative channel may soon be available for Science Hill. Currently pending before the Commission is an application to modify the facilities of Station WVRB (FM), Wilmore, Kentucky, of which Baldwin is the licensee. As explained in the Engineering Statement, with the grant of the WVRB application (BPH-20000807AFP) and construction of the proposed facilities, the reference point for the Burgin allotment can be moved further north.<sup>2</sup> If that alternative reference point were used, Channel 291A could be allotted to Science Hill.<sup>3</sup>

While the availability of this alternative channel is dependent upon the modification of WVRB, Baldwin anticipates that by the time the Commission staff is ready to choose between the Burgin and Science Hill proposals, WVRB will be operating with its modified facilities. Grant of the modification application is expected within two weeks and Baldwin intends to construct the station's new facilities immediately.

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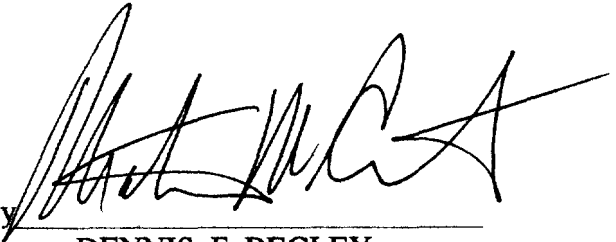
<sup>2</sup> Specifically, the Burgin reference point would be 37-48-37 NL, 84-41-30 WL.

<sup>3</sup> The reference point for Channel 291A at Science Hill would be 37-10-36 NL, 84-29-10 WL. From this site, the 60 dBu contour of the Science Hill station would encompass a population of 66,875 person, which is a gain of 1,516 persons over PCB's proposed facility on Channel 290A. *See* Engineering Statement.

Of course, if modification of WVRB is not completed as soon as Baldwin expects and no other alternative channel is found for Science Hill, Commission precedent and the public interest directs that Baldwin's proposal for Burgin be adopted.

WHEREFORE, In light of all circumstances present, the FM Table of Allotments should be AMENDED to add Channel 290A at Burgin, Kentucky, as that community's first local service.

**VERNON R. BALDWIN**

By 

DENNIS F. BEGLEY  
MATTHEW H. McCORMICK  
His Counsel

Reddy, Begley & McCormick  
2175 K Street, Suite 350  
Washington, D.C. 20037  
(202) 659-5700

November 28, 2000

## **REPLY TO COMMENTS AND COUNTERPROPOSAL**

MM Docket No. 00-173, RM 9964

Vernon R. Baldwin

Assign Channel 290A

Burgin, Kentucky

These Technical Comments Reply to the Comments and Counterproposal by Pulaski County Broadcasting ("PCB") to assign Channel 290A to Science Hill, Kentucky instead of Burgin, Kentucky, as has been proposed by Vernon R. Baldwin ("VRB"). The PCB proposal will provide Science Hill with its first local service and the VRB proposal will provide first local service to Burgin<sup>1</sup>. According to the US Census, both communities are incorporated cities, Science Hill is located in Pulaski County with a 1990 population of 628 persons. Burgin is in Mercer County and has a 1990 population of 1,009 persons. A maximum Class A facility from the proposed Science Hill proposed site will provide 65,359 persons within the 60 dBu contour. On the other hand, a maximum Class A facility as proposed by VRB at Burgin will provide service to 94,999 within the same contour. Neither Burgin nor Science Hill are underserved areas as more than five other aural stations provide service to the entire proposed 60 dBu contour of both proposals. The VRB proposal will provide service to a community with a population of over 350 persons more than the community proposed by PCB. Additionally, a maximum Class A facility at Burgin will provide almost 30,000 more persons with primary service.

However, we believe this does not have to be an "either" situation. There is a way that both communities can have service. Vernon R. Baldwin is the proponent for the Channel 290A add at Burgin and is a principal in Baldwin Broadcasting licensee of WVRB Channel 237A at Wilmore, Kentucky. WVRB has a minor application (BCP-20000807AFP) pending before the Commission that will change the location of WVRB. The FCC's staff has advised that this application should be granted within two weeks. With WVRB operating at its proposed facilities, the proposed Channel 290A reference site can be moved to a site further to the north<sup>2</sup>. From this site all the spacing provisions of Section 73.207 will be maintained and a city grade signal will be provided for all of Burgin per Section 73.315 (See attached Exhibits #1A and #1C).

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<sup>1</sup> According to the US Census Bureau neither Science Hill or Burgin nor the counties (Pulaski and Mercer) are located within any urbanized area.

<sup>2</sup> Proposed site for Channel 290A at Burgin North Latitude 37° 48' 37" West Longitude 84° 41' 30".


By moving the Channel 290A reference site for Burgin, further north Channel 291A can be assigned to Science Hill. The proposed site for Channel 291A<sup>3</sup> will meet the provisions of Section 73.207 and provide city grade service to Science Hill, again meeting the requirements of Section 73.315 (See attached Exhibits #2A and #2C).

The proposed Channel 291A reference site will provide service to 66,875 persons which is a gain of 1,500 person over the PCB proposed facility on Channel 290A.

The Commission's Staff has stated that the WVRB application should be granted in less than two weeks. Vernon R. Baldwin proposes to immediately construct the new WVRB facilities as quickly as possible upon receiving a grant. Therefore WVRB will be on the air well before either Channel 290A at Burgin or Channel 291A at Science Hill would be available for application.

Thus it is the proposal of VRB to add Channel 290A to Burgin, Kentucky at the new reference site and if PCB continues its interest in Science Hill then add Channel 291A to Science Hill, Kentucky.

**Bromo Communications, Inc.**



William G. Brown  
Technical Consultant to Vernon R. Baldwin

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<sup>3</sup> Proposed site for Channel 291A at Science Hill North Latitude 37° 10' 36" West Longitude 84° 29' 10".

## EXHIBIT #1A

Channel 290A - 105.9 MHz  
Burgin, Kentucky

### \$73.207 Allocation Study

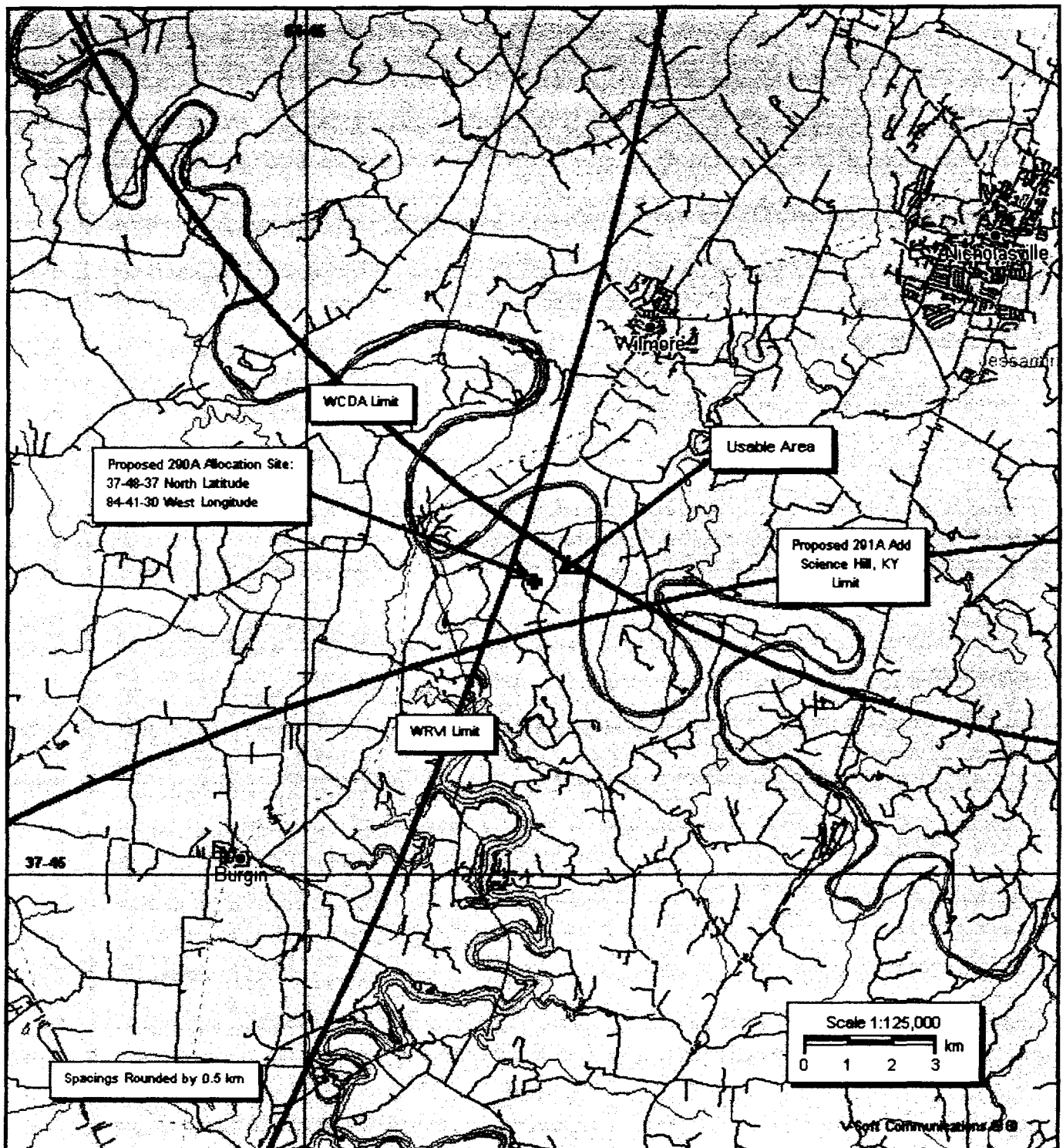
Searching from Proposed Allocation Site  
Burgin Kentucky

REFERENCE		DISPLAY DATES
37 48 37 N	CLASS = A	DATA 11-26-00
84 41 30 W	Current Spacings	SEARCH 11-27-00
----- Channel 290 - 105.9 MHz -----		

Call	Channel	Location		Dist	Azi	FCC	Margin
R---	290A	Burgin	KY	11.20	200.1	114.5	-103.30
WVRB	LIC 237A	Wilmore	KY	7.06	135.1	9.5	-2.44
WRVI	LIC 290A	Valley Station	KY	115.11	288.8	114.5	0.61
WCDA	LIC 292A	Versailles	KY	31.30	32.6	30.5	0.80
AD291	LIC 291A	Science Hill	KY	72.63	165.5	71.5	1.13
WMKJ.C	CP 288C3	Mount Sterling	KY	44.03	49.0	41.5	2.53
WYKY	LIC 289A	Eminence	KY	74.18	324.5	71.5	2.68
WVRB.A	APP 237A	Wilmore	KY	21.06	37.6	9.5	11.56
WPFBFM	LIC 290B	Middletown	OH	191.63	8.7	177.5	14.13
WTBK.C	CP 289C3	Manchester	KY	110.81	131.3	88.5	22.31
WMORFM	LIC 291C3	Morehead	KY	116.71	68.8	88.5	28.21
WMORFM	CP 291C3	Morehead	KY	116.71	68.8	88.5	28.21
WTBK	LIC 289A	Manchester	KY	110.83	131.3	71.5	39.33
WMKJ	LIC 288A	Mount Sterling	KY	72.82	64.1	30.5	42.32
WNRQ	LIC 290C	Nashville	TN	275.20	224.8	225.5	49.70
WINN	LIC 291B	North Vernon	IN	165.11	328.1	112.5	52.61
WKMO	LIC 292A	Hodgenville	KY	93.90	260.9	30.5	63.40
AVAC	VAC 290A	Tazewell	TN	179.32	146.5	114.5	64.82

Note: Spacings rounded by 0.5 kilometers

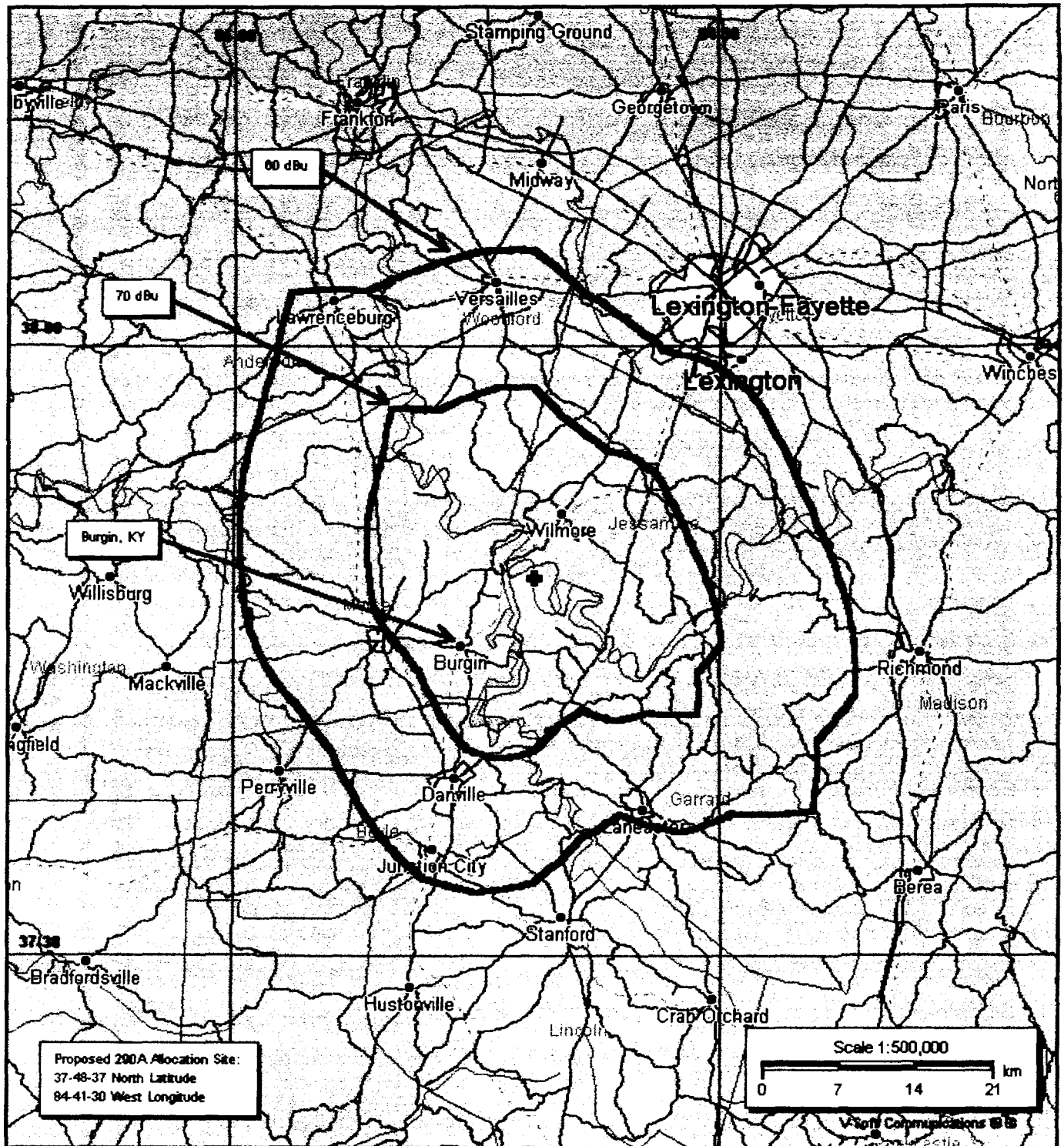
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November 2000



**EXHIBIT #1B**  
**USABLE AREA MAP**  
Channel 290A - 105.9 mHz  
Burgin, Kentucky

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Atlanta, Georgia  
November 2000





**EXHIBIT #1C**  
**PROPOSED CONTOURS**  
 Channel 290A - 105.9 mHz  
 Burgin, Kentucky

**Bromo Communications, Inc.**  
 Atlanta, Georgia  
 November 2000

## EXHIBIT #2A

Channel 291A - 106.1 MHz  
Science Hill, Kentucky

### \$73.207 Allocation Study

Searching from Allocation Reference Site  
Science Hill Kentucky

REFERENCE		DISPLAY DATES
37 10 36 N	CLASS = A	DATA 11-26-00
84 29 10 W	Current Spacings	SEARCH 11-27-00

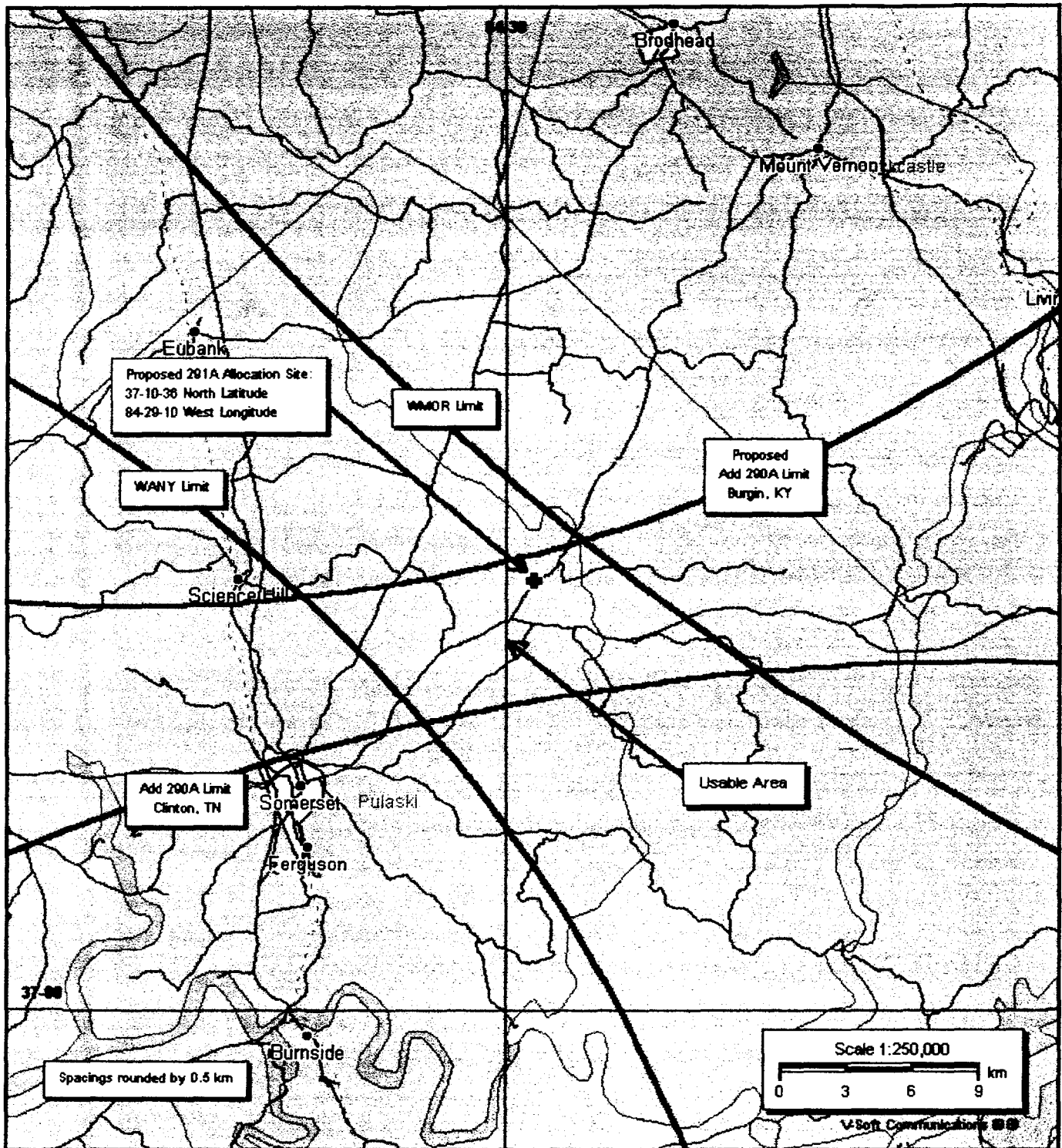
----- Channel 291 - 106.1 MHz -----

Call	Channel	Location		Dist	Azi	FCC	Margin
R---	290A	Burgin	KY	72.64	345.6	71.5	1.14
WMORFM CP	291C3	Morehead	KY	144.32	38.9	141.5	2.82
WMORFM LIC	291C3	Morehead	KY	144.32	38.9	141.5	2.82
RADD ADD	291A	Clinton	TN	119.91	170.5	114.5	5.41
WANYFM LIC	292A	Albany	KY	79.47	228.2	71.5	7.97
WRIL.C CP	292A	Pineville	KY	83.76	123.9	71.5	12.26
WRIL.C CP	292A	Pineville	KY	83.78	123.9	71.5	12.28
WLFX LIC	294A	Berea	KY	43.52	33.2	30.5	13.02
WTBK.C CP	289C3	Manchester	KY	65.26	92.4	41.5	23.76
WCDA LIC	292A	Versailles	KY	96.66	359.3	71.5	25.16
WLFX.C CP	294A	Berea	KY	61.51	28.9	30.5	31.01
WTBK LIC	289A	Manchester	KY	65.23	92.5	30.5	34.73
AVAC VAC	290A	Tazewell	TN	113.16	134.6	71.5	41.66
WKMO LIC	292A	Hodgenville	KY	124.11	296.8	71.5	52.61
WVRB LIC	237A	Wilmore	KY	66.65	348.7	9.5	57.15
WINN LIC	291B	North Vernon	IN	235.41	333.5	177.5	57.91
WMKJ.C CP	288C3	Mount Sterling	KY	100.25	8.7	41.5	58.75
WJSNFM LIC	293A	Jackson	KY	105.00	66.6	30.5	74.50

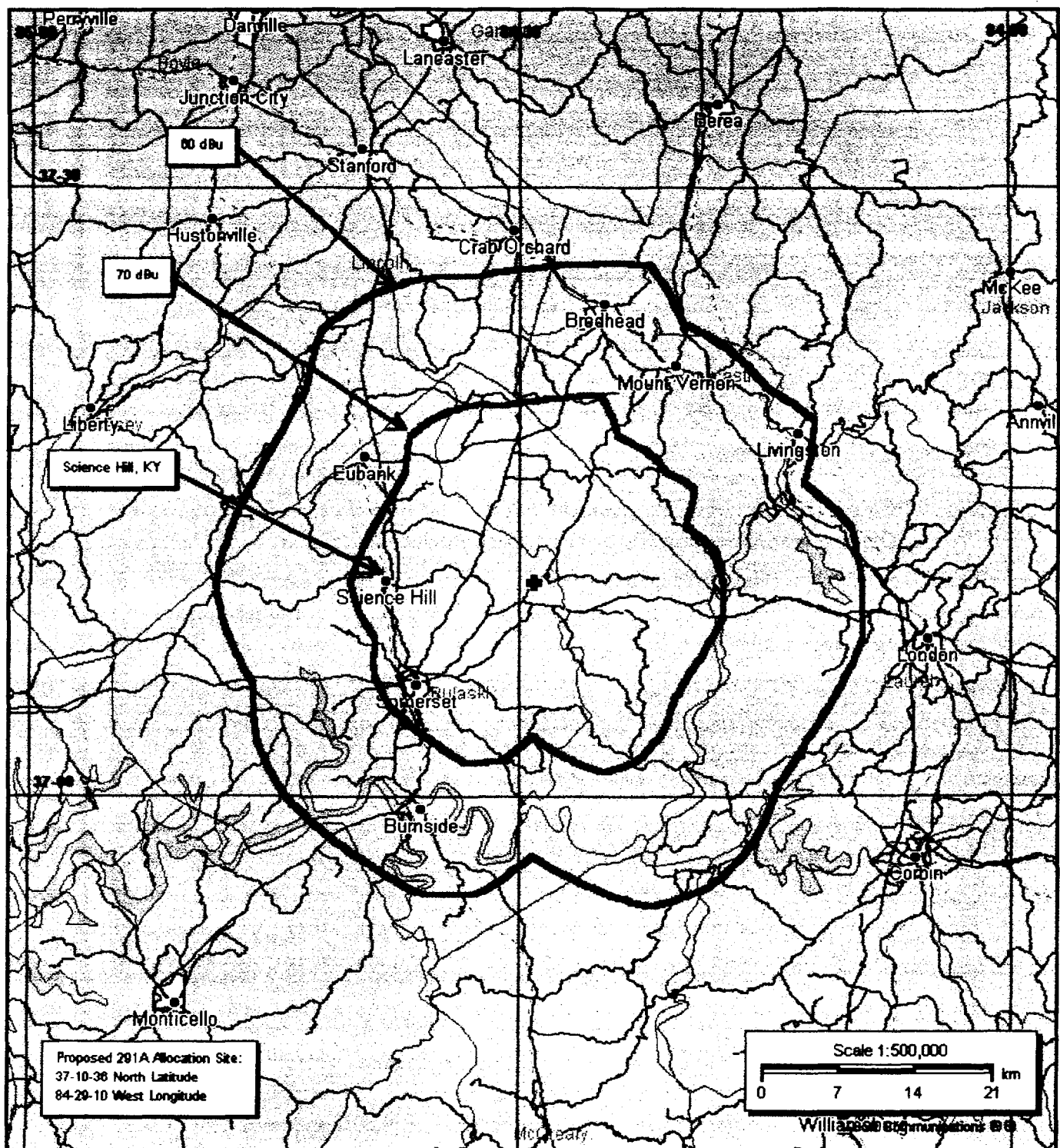
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Note: Spacings rounded by 0.5 kilometers

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Atlanta, Georgia  
November 2000



**EXHIBIT #2B**  
**USABLE AREA MAP**  
 Channel 291A - 106.1 MHz  
 Science Hill, Kentucky  
**Bromo Communications, Inc.**  
 Atlanta, Georgia  
 November 2000



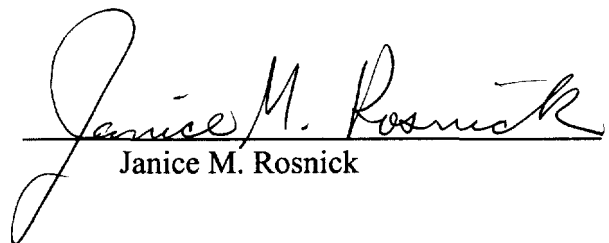
**EXHIBIT #2C**  
**PROPOSED CONTOURS**  
Channel 291A - 106.1 MHz  
Science Hill, Kentucky

**Bromo Communications, Inc.**  
Atlanta, Georgia  
November 2000

**CERTIFICATE OF SERVICE**

I, Janice M. Rosnick, hereby certify that on this 28th day of November, 2000, copies of the foregoing **REPLY COMMENTS OF VERNON R. BALDWIN** were hand-delivered or mailed, first-class, postage prepaid, to the following:

Sally A. Buchman, Esq.  
Leventhal Senter & Lerman, P.L.L.C  
2000 K Street, N.W., Suite 600  
Washington, D.C. 20006-1809

  
Janice M. Rosnick